IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.3654/06
Ramkishan
Vs.
State of Raj. & Ors.

30.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Biri Singh for petitioner.
Shri B.S. Chhaba, Deputy Government Advocate for State.
Shri P.S. Sharma for respondent.

This writ petition has been filed by the petitioners seeking a mandamus upon the respondents that they should proceed to take action against the respondent no.5 Prem Prakash Sharma being holding the post of Sarpanch of Gram Panchayat Sivad, Panchayat Samiti Chouth Ka Barwara, Distt. Sawaimadhopur by initiating against him administrative action u/s. 39 of the Rajasthan Panchayati Raj Act on account of disqualification with which he suffered at the time of his elections.

This issue is squarely covered by the decision of the Larger Bench in the case of Smt. Sameera Bano Vs. State of Raj. & Ors, D.B. Special Appeal (W) No.236/06, decided on 2.4.2007 wherein it has been held as under:-

> "that a pre-election disqualification can be adjudicated only in an election petition before the District Judge under Section 43 of the Act read with rule 80 of the Election Rules and cannot be adjudicated by the authority under rule 23 of the Rules."

Following the view taken by the larger in Smt. Sameera Bano, supra, no case is made out for interference. The writ petition is therefore dismissed.

(Mohammad Rafiq),J.

Rs/-